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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

MARYAM SOLEIMANI KARSON, Plaintiff and Appellant, v. MEHRZAD MARY SOLEIMANI, Defendant and Respondent.	B216360, B219698 (Los Angeles County Super. Ct. No. GC042491)

APPEAL from an order of the Superior Court of Los Angeles County, C. Edward Simpson, Judge. Reversed and remanded with directions.

Maryam Soleimani Karson, in pro. per., for Plaintiff and Appellant.

Law Offices of Cyrus Meshki and Cyrus Meshki for Defendant and Respondent.

Appellant Maryam Soleimani Karson (Karson) sued her stepmother, respondent Mehrzad Mary Soleimani (Soleimani), for damages arising out of the probate in Iran of the estate of Karson's father and Soleimani's husband. Karson claims Soleimani absconded with Karson's share of the estate, as a result of fraud and in breach of an agreement between the parties.

Soleimani moved to dismiss this action on the ground of forum non conveniens, arguing that Iran was a more appropriate forum in which to try Karson's claims. The trial court agreed. It stayed, and later dismissed, the action. We reverse.

FACTUAL AND PROCEDURAL BACKGROUND

Our factual recitation is drawn primarily from Karson's verified complaint which alleges: Kioumars Soleymani Ardakani (Ardakani), died intestate in September 2007. He had lived his entire life in Iran, where he owned several parcels of real property. Those properties included a seafront property, located in Sorkhrood, Iran (Sorkhrood property), a condominium in Navab, Tehran (Navab property), and a house in Mokhtariyeh, Tehran (Mokhtariyeh property).

Ardakani was Karson's father and the estranged husband of his second wife, Soleimani.[1] Ardakani was a member of the Baha'i faith, as is Soleimani, and the two were married in 1980 in Iran in accordance with the tenets of that faith. The Baha'i faith is condemned by the Iranian government. Karson is "technically" a Muslim. Karson, who was granted asylum in 1997, is a naturalized United States (U.S.) citizen, and a citizen of the Islamic Republic of Iran. Soleimani has resided in the U.S. for over 15 years; she lives in Arcadia California.

Soleimani and Karson each traveled to Iran to attend Ardakani's funeral. While in Iran, Soleimani retained the services of an attorney, Ahmad Doroodian (Doroodian). Soleimani and Susan (see fn. 1) vested Doroodian with an unlimited power of attorney to act on their behalf with respect to matters related to the probate in Iran of Ardakani's

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[1] Ardakani is also survived by a daughter from his marriage to Soleimani, Susan Soleimani (Susan), who is not a party to this litigation.

estate. While she was still in Iran, Karson transferred an unlimited power of attorney to her uncle, to act on her behalf with respect to matters related to her father's estate. Karson's uncle subsequently transferred that power of attorney to Kamal Hosseinkhani, who had been Ardakani's close friend for over 30 years.

Doroodian filed a probate petition with respect to Ardakani's estate. Thereafter, he refused repeated requests by Karson and her uncle for information or documentation regarding the probate of Ardakani's estate. As a result, Karson made arrangements to retain an attorney in Iran to file an independent probate petition to represent her interests in her father's estate. When Doroodian was informed of this fact, he asked Karson to refrain from pursuing an independent action, claiming a second petition would lead to extensive procedural delays. Karson also claims Doroodian falsely told her that if she filed an independent probate action and disclosed her father as a Baha'i to the Iranian court, it would jeopardize her ability to recover from Ardakani's estate. Doroodian promised Karson that if she agreed to refrain from filing a separate probate petition, Soleimani would take all necessary steps to secure the Sorkhrood property for Karson, and promptly provide Karson with an unlimited power of attorney with respect to any legal rights she and Susan had or might acquire in the Sorkhrood property.[2] Karson accepted this offer, and refrained from filing an independent probate petition. Over the course of the next few months, Soleimani and Doroodian repeatedly promised—but never delivered—the promised power of attorney to Karson.

In March or April 2008, Soleimani demanded that Karson pay Doroodian's legal fees of approximately $230,000 for services rendered in connection with the probate of Ardakani's estate. Karson balked, as she had not retained Doroodian and he had not

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[2] Karson alleges that Ardakani wished to ensure the Sorkhrood property be kept in trust for his first grandchild, her son Cougar, but that Sorkhrood property had, at some unspecified time, been fraudulently acquired from Ardakani. However, before he died, Ardakani assured Karson the legal challenges had been resolved, and "title would be issued in [Karson's] name." Karson does not specify the value or disposition of the Sorkhrood property in the complaint. However, she contends this dispute relates only to the distribution of monetary assets, not real property.

performed any services on her behalf. In addition, Karson believed Doroodian's fee was exorbitant, in light of the fact that she had previously agreed to pay another attorney about $13,000 for the provision of legal services equivalent to those Doroodian had supposedly performed. Karson subsequently learned Soleimani agreed to pay Doroodian such an exorbitant rate because he paid bribes to civil servants in order to facilitate the probate of Ardakani's estate. In addition, although Ardakani's original death certificate contained a stamp indicating he was a member of a "Religious Minority," Doroodian submitted a falsified death certificate to the probate court stating Ardakani was a Muslim, in order to avoid disclosing to the Iranian judiciary that Ardakani and Soleimani were members of the Baha'i faith.[3]

Karson claims that at or around this time, Soleimani and Doroodian contacted Hosseinkhani, to whom Karson's uncle had by then transferred Karson's power of attorney. Soleimani and Doroodian conspired with Hosseinkhani to transfer Karson's interests in the Mokhtariyeh and Navab properties to Doroodian as payment for his legal fees, in exchange for a payment by Soleimani and Susan to Hosseinkhani of approximately $6,500, and payment of an unspecified sum by Doroodian to Hosseinkhani. In mid-May 2008, Doroodian contacted Karson and informed her the probate of her father's estate was complete, and she no longer owned any interest in the Mokhtariyeh or Navab properties. Karson alleges the value of her share in the Mokhtariyeh and Navab properties, at the time the Iranian probate was completed, was at least $230,000.

In March 2009 Karson filed this action for damages against Soleimani and several Doe defendants. The verified complaint alleges causes of action for: (1) breach of contract; (2) fraud; (3) negligent misrepresentation; (4) promissory estoppel;

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[3] Karson claims Soleimani engaged in this deception because the Iranian government does not recognize Baha'i marriages, confiscates property belonging to Baha'is, and because Baha'is have no right of restitution or compensation for such loss. She also claims Baha'is may not inherit property.

(5) intentional infliction of emotional distress; (6) constructive trust/unjust enrichment; and (7) conversion.

Soleimani filed a motion seeking to have the action dismissed, on the ground of forum non conveniens. (Code Civ. Proc., § 410.30, subd. (a)[4].)

Karson filed an opposition to the motion, supported by her declaration and a request for judicial notice.

Soleimani filed a reply, supported by a declaration from Cyrus Meshki, her attorney in this action. Soleimani argued the action should be dismissed or, at a minimum, stayed.

Following a hearing, the trial court deemed Soleimani's motion to dismiss a motion to stay based on forum non conveniens and, on that basis, granted the motion. The trial court found Iran provided Karson a suitable alternative forum in which to adjudicate her claims against Soleimani, and that both private and public interests weighed in favor of trying those claims in Iran.

Karson filed an appeal from the order staying the action. While that appeal was pending, the trial court entered an order dismissing the action based on forum non conveniens. Karson filed a second appeal from the order dismissing the action.[5]

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[4] Undesignated statutory references are to the Code of Civil Procedure.

[5] Karson moved to consolidate the two appeals. We granted that motion, and consolidated the appeals for purposes of briefing, oral argument and decision.

At the outset, we note the trial court lacked jurisdiction to dismiss the action. Once the appeal from the order granting the stay—an appealable order (see § 904.1, subd. (a)(3))— was perfected, the trial court was divested of power to act on any matter "embraced in" or "affected by" the order appealed from. (§ 916, subd. (a); *Varian Medical Systems, Inc. v. Delfino* (2005) 35 Cal.4th 180, 196–198.) By that point, jurisdiction over matters appealed from had shifted to the court of appeal, and any act by the trial court in contravention of the section 916 stay was void as an act in excess of that court's jurisdiction. (35 Cal.4th at pp. 198–199.)

Clearly, an order by the trial court dismissing an action on the ground of forum non conveniens, thereby depriving itself forever of jurisdiction of an action previously merely stayed on the same ground, is a matter affecting the status quo which, if effective, would render the pending appeal futile. Accordingly, we reverse the order and will

DISCUSSION

1. Legal framework and standard of review

Forum non conveniens is an equitable doctrine under which a court may decline to exercise its jurisdiction to hear a case when it finds the case may be more appropriately and justly tried elsewhere. (*Stangvik v. Shiley Inc.* (1991) 54 Cal.3d 744, 751 (*Stangvik*).) The doctrine is codified in section 410.30, which states: "When a court upon motion of a party or its own motion finds that in the interest of substantial justice an action should be heard in a forum outside this state, the court shall stay or dismiss the action in whole or in part on any condition that may be just." (§ 410.30, subd. (a).) If a court grants a stay on grounds of forum non conveniens, it retains jurisdiction over the case and may resume the proceedings if the action in the alternative forum is unreasonably delayed or fails to reach a resolution on the merits. (*Archibald v. Cinerama Hotels* (1976) 15 Cal.3d 853, 857 (*Archibald*).) A dismissal, on the other hand, completely deprives the court of jurisdiction over the case. (*Id.* at pp. 857–858.) As the moving party, the defendant bears the burden to prove California is an inconvenient forum. (*Stangvik, supra*, at p. 751.) To satisfy this burden, the movant must produce evidence; bald assertions will not suffice. (*Ford Motor Co. v. Insurance Co. of North America* (1995) 35 Cal.App.4th 604, 610 (*Ford Motor Co.*).)

A court ruling on a motion to stay or dismiss an action based on forum non conveniens engages in a two-step analysis. First, as a threshold matter, it must determine the suitability of the proposed alternative forum. (*Stangvik, supra*, 54 Cal.3d at p. 752, fn. 3.) A forum other than California is suitable if and only if the defendant is subject to jurisdiction in that forum, the statute of limitations in that forum would not bar the action, and the action would be adjudicated by an independent judiciary respecting due process of law. (*Guimei v. General Electric Co*. (2009) 172 Cal.App.4th 689, 696 (*Guimei*); *Boaz v. Boyle & Co*. (1995) 40 Cal.App.4th 700, 711 (*Boaz*); *Stangvik, supra*, at pp. 753–

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remand the matter with directions to the trial court to vacate its dismissal. The remainder of our opinion is addressed to the merits of the trial court's order staying the action on the ground that California is an inconvenient forum.

754, fn. 5, 764.) The trial court's determination of the suitability of an alternative forum is a "nondiscretionary determination." (*Chong v. Superior Court* (1997) 58 Cal.App.4th 1032, 1036 (*Chong*); *Shiley Inc. v. Superior Court* (1992) 4 Cal.App.4th 126, 131 (*Shiley Inc.*).) "There is no balancing of interests in this decision, nor any discretion to be exercised." (*Shiley Inc., supra,* at p. 132.) It is a legal question subject to de novo review. (*American Cemwood Corp. v. American Home Assurance Co.* (2001) 87 Cal.App.4th 431, 436 (*American Cemwood*).)

If the court finds the alternative forum a suitable place for trial, the second step of the analysis is to consider the private interests of the parties and the public interests in litigating the case in California. (*Stangvik, supra*, 54 Cal.3d at p. 751.) "The private interest factors are those that make trial and the enforceability of the ensuing judgment expeditious and relatively inexpensive, such as the ease of access to sources of proof, the cost of obtaining attendance of witnesses, and the availability of compulsory process for attendance of unwilling witnesses. The public interest factors include avoidance of overburdening local courts with congested calendars, protecting the interests of potential jurors so that they are not called upon to decide cases in which the local community has little concern, and weighing the competing interests of California and the alternate jurisdiction in the litigation. [Citations.]" (*Ibid.*)

In ruling on a forum non conveniens motion, the court must carefully balance all relevant factors; no one factor should determine the outcome of the motion. (*Rinauro v. Honda Motor Co.* (1995) 31 Cal.App.4th 506, 510.) Instead, the "private and public interest factors must be applied flexibly, without giving undue emphasis to any one element." (*Stangvik, supra*, 54 Cal.3d at p. 753.) "[T]he appropriate question for the court is not whether a suit can be brought in California, but whether California has sufficient private and public interests in the action to entertain it in this state." (*Hansen v. Owens-Corning Fiberglas Corp.* (1996) 51 Cal.App.4th 753, 759.) The trial court's determination at this second step of the analysis as to balancing private and public interests is a task squarely within its discretion, and its ruling is entitled to "substantial

deference" on appeal. (*Chong*, *supra*, 58 Cal.App.4th at p. 1037.) As such, it is subject to review only for abuse of discretion. (*Ibid*.)

The plaintiff's choice of a California forum is entitled to great weight, particularly if the plaintiff is a California resident. (*Stangvik*, *supra*, 54 Cal.3d at pp. 754–755.) Because "dismissal of an action results in California's loss of jurisdiction over the matter, it has long been the rule . . . that an action brought by a California resident may not be dismissed on grounds of forum non conveniens except in extraordinary circumstances." (*Century Indemnity Co. v. Bank of America* (1997) 58 Cal.App.4th 408, 411, fn. omitted.) As to a dismissal, the plaintiff's choice of forum is entitled to a "strong presumption" of appropriateness; the defendant must demonstrate not merely that the proposed alternative is a better forum, but that California is a "*seriously inconvenient* forum." (*Ford Motor Co.*, *supra*, 35 Cal.App.4th at p. 611; see also *Northrop Corp. v. American Motorists Ins. Co*. (1990) 220 Cal.App.3d 1553, 1561.) If the defendant fails to meet this burden, a grant of a motion to dismiss will necessarily be error. (*Ford Motor Co.*, *supra*, at p. 611.)

The court may dismiss, rather than stay, an action by a California resident based on forum non conveniens only in extraordinary circumstances. (*Archibald*, *supra*, 15 Cal.3d at p. 858.) *Archibald* rejected the argument that a trial court may dismiss an action by a California resident based on forum non conveniens in any "case in which the foreign forum is very much more convenient." (*Ibid*.) On the contrary, an action by a California resident may be dismissed based on the ground of forum non conveniens only if "California cannot provide an adequate forum or has no interest in doing so." (*Id*. at p. 859, fn. omitted.) The trial "has considerably wider discretion to grant stays precisely because under a stay California retains jurisdiction. [Citation.] Even an action brought by a California resident is subject to a stay." (*Century Indemnity Co. v. Bank of America*, *supra*, 58 Cal.App.4th at p. 411.) "In considering whether to stay an action, in contrast to dismissing it, the plaintiff's residence is but one of many factors which the court may consider." (*Archibald*, *supra*, at p. 860.)

2. Iran is not a suitable alternative forum

We begin with the first step in the forum non conveniens analysis, whether the proposed alternative forum is a suitable place for trial. (*Stangvik*, *supra*, 54 Cal.3d at p. 751.) In a typical case, an alternative forum is suitable "if there is jurisdiction and no statute of limitations bar to hearing the case on the merits." (*Chong*, *supra*, 58 Cal.App.4th at p. 1037.) "The availability of a suitable alternative forum for the action is critical." (*American Cemwood*, *supra*, 87 Cal.App.4th at p. 435.) Because of this factor, the suit will be entertained, no matter how inappropriate a plaintiff's choice of forum may be, if the defendant cannot be subjected to jurisdiction in the alternative forum. The same is true if plaintiff's cause of action is elsewhere barred by the statute of limitations, unless the court is willing to accept the defendant's agreement not to assert this defense. (*Stangvik*, *supra*, at p. 752.) And, in extraordinary circumstances, a proposed alternative forum will be deemed unsuitable even if a defendant is amenable to process and even if there is no procedural bar to resolving the issues on the merits. This exception applies in cases in which, effectively, "'no remedy at all'" is available, viz., the proposed alternative forum lacks an independent judiciary, or fails to adhere to the tenets of due process, as that term has been defined by American courts. (*Chong*, *supra*, at p. 1037; *Shiley Inc.*, *supra*, 4 Cal.App.4th at pp. 133–134; *Boaz*, *supra*, 40 Cal.App.4th at p. 711.) The motion to dismiss based on forum non conveniens must be denied if no suitable alternative forum is available to the plaintiff. (*Stangvik*, *supra*, at p. 752.)

a. Jurisdiction in the alternative forum

The pivotal issue on appeal is whether the courts of Iran provide a suitable alternative forum for Karson's claims. The burden is Soleimani to make this showing by demonstrating she is subject to jurisdiction in the alternative forum. (*American Cemwood*, *supra*, 87 Cal.App.4th at p. 440.) To satisfy this burden, the defendant moving to dismiss on grounds of forum non conveniens must produce evidence; "merely bald assertions" will not suffice. (See *Ford Motor Co.*, *supra*, 35 Cal.App.4th at p. 610.)

Here, Soleimani merely asserted, without any evidentiary support, that Karson could "properly bring her causes of action in Iranian courts, Iran still maintains

jurisdiction over [Soleimani], and the action is not barred by the statute of limitation." In addition, Soleimani asserted that both she and Karson "have sufficient contacts with Iran to make it an appropriate forum." At best, Soleimani understated the governing standard—by asserting she need "merely show that [Karson had] chosen an inconvenient forum for adjudication of the matter;" at worst, she misrepresented that standard by averring that she lacked a duty "to establish what forum would be convenient."

Soleimani's motion founders on the first prong of the threshold step of the forum non conveniens test: Soleimani has presented no evidence to establish she is subject to jurisdiction in Iran. Indeed the only evidence before the trial court on this point, is in Karson's verified complaint and her declaration in opposition to the motion to dismiss, is that Soleimani is a long-term California resident. Soleimani had not been to Iran for at least 15 years before she went there to attend Ardakani's funeral. The fact of Soleimani's status as a long-term U.S., resident is borne out by a letter she submitted to the Immigration and Naturalization Service in 2001 in support of an I-130 "'petition for alien relative,'" as part of her effort to obtain permanent U.S. resident alien status for her husband, Ardakani.[6] In addition, although Soleimani apparently voluntarily subjected herself to the jurisdiction of Iranian courts (albeit under false pretenses) by participating in the probate proceeding of Ardakani's estate that was wrapped-up in 2008, there is no evidence she remains amenable to service of process there. Absent a showing the defendant is subject to jurisdiction in Iran, the trial court's stay or dismissal of the action constitutes reversible error. (See *American Cenwood*, *supra*, 87 Cal.App.4th at p. 440 [each defendant seeking stay on grounds of forum non conveniens must show he or she can be sued in alternative forum].)

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[6] As relevant here, Federal law permits non U.S. citizens to immigrate only if a U.S. citizen or lawful permanent resident alien relative (spouse, child, parent or sibling) agrees to sponsor the non-citizen. (See 8 U.S.C. §§ 1154(a)(1)(A)(i), (1154(b); 8 CFR § 204.1(a) (2010).)

b. Statutes of limitation

The availability of a suitable alternative forum depends not only on whether the defendant is subject to the jurisdiction of the alternative forum, but also on whether the statute of limitations has run in that forum. (*Stangvik*, *supra*, 54 Cal.3d at p. 751.) A defendant may not "'request dismissal of an action on the ground that it should be heard in another forum when the action will likely never be heard in the other forum because it is barred by the statute of limitations there.' [Citation.]" (*Delfosse v. C.A.C.I., Inc.-Federal* (1990) 218 Cal.App.3d 683, 690.) If the statute of limitations has expired in the alternative forum, the defendant must be willing to waive the statute of limitations as a condition of the court granting a motion based on forum non conveniens. (*Stangvik*, *supra*, at p. 752; *Delfosse v. C.A.C.I., Inc.-Federal*, *supra*, at pp. 690–691.)

Soleimani's motion, supporting memorandum and her reply papers were prepared by Meshki, a California legal practitioner who also purports to be an expert in Iranian and Islamic laws, and who has taught and practiced law in Iran. Notwithstanding his purported expertise, Meshki failed to establish that Karson's contract, tort and equitable claims are not barred by Iranian statutes of limitation. The record contains no evidence Soleimani agreed not to raise the statute of limitations as a defense in Iran, or to toll the statute in California if a stay was granted. Thus, Soleimani failed also to make this portion of the requisite threshold showing that a suitable alternative forum was available for adjudication of Karson's claims.

c. "No remedy at all"

Even if Soleimani were amenable to process in Iran, and that forum did not present a procedural bar to disposition of Karson's claims on the merits, Iran would still be an unsuitable alternative forum. A rarely invoked, but well-established exception obtains in forum non conveniens cases in which there is "'no remedy at all.'" This exception is reserved for those rare instances in which the foreign forum lacks an independent judiciary, or fails to apply principles of due process as that term has been interpreted and applied by American courts. In such cases, the foreign forum is

unsuitable as a matter of law. (*Guimei*, *supra*, 172 Cal.App.4th at p. 697; *Boaz*, *supra*, 40 Cal.App.4th at p. 711; *Chong*, *supra*, 58 Cal.App.4th at p. 1037.) This is such a case.

Soleimani insists Iran is a more appropriate forum than California in which to resolve this matter. She asserts "Iran is a foreign independent sovereignty. Its Constitution not only supports the notion of 'due process of law' through its modern legal principals [sic], but also specifically recognizes separation of the three branches of government: Judiciary, Legislative and Administrative. (Iran's Constitutional Law enacted 1979 . . .; Article 57)." Soleimani, however, has offered no evidence to support this contention, or to illustrate how Iran's purportedly independent Constitutional law is implemented on a practical level.

Karson, on the other hand, cites several sources which indicate Iran may well lack an independent judiciary that adheres to principles of due process. For example, Karson points to the Department of State's (DOS), 2008 Report on Human Rights Practices in Iran, submitted to Congress on February 25, 2009 (Report). According to the Report, although the Iranian judiciary is purportedly independent from the government's executive and legislative branches, in practice the judiciary remains under the influence of executive and religious authorities. Indeed, even Soleimani points to an inextricably intertwined relationship between the religious and judicial institutions, as a basis for why Iran provides a more suitable forum in which to resolve Karson's claims. (See Motion to Dismiss, Memorandum of Points and Authorities, at pp. 2, 10 (noting that "disposition of this matter would inherently and inseparably involve[] the laws of Iran and Islam," both procedurally and on the merits), and 12 (asserting that, litigating in California will require court to become "familiar with the Iranian and Islamic laws that led to the matter").) Karson also notes the Report opines that there is a "glaring" absence of due process in Iranian courts where, for example, it requires "[t]he testimony of two women [to] equal . . . that of one man." Karson also argues that, because inheritance laws in Iran favor Muslims over non-Muslims, to maximize her ability to prevail against Soleimani in Iran, she would likely need to reveal that Soleimani is Baha'i, as was her father, that Soleimani purposefully misled the Iranian judiciary to believe she and her late husband

were Muslim, and that Soleimani and Doroodian bribed civil servants to shepherd Ardakani's estate through probate. Karson observes that, if her revelations are deemed credible, Soleimani is likely to suffer severe penalties,[7] because members of the Baha'i faith have few rights in Iran and inheritance of property is not among them. Further, Karson argues that even if she obtained an Iranian judgment against Soleimani which she sought to enforce in the U.S., she would, in all likelihood be unable to do so in light of the Iranian government's treatment of Baha'is. That judgment would have been obtained in violation of Soleimani's right of due process, as our courts understand that term, and no American court would enforce it. (See e.g., *Chong, supra,* 58 Cal.App.4th at p. 1037; *Stangvik, supra,* 54 Cal.3d at p. 752, fn. 3; *Bank Melli Iran v. Pahlavi* (9th Cir. 1995) 58 F.3d 1406, 1410–1414 [observing that evidence contained in several DOS Reports on Human Rights Practices in Iran (1982-1986), demonstrated that any judgment plaintiff might obtain against defendant (the sister of former Shah) in Iran would have been obtained in violation of defendant's due process rights, and be unenforceable in U.S. because defendant could not have received a fair trial under Iranian system of jurisprudence].)

In sum, as the moving party, Soleimani bore the burden to show that California is an inconvenient forum. (*Stangvik, supra,* 54 Cal.3d at p. 751.) To satisfy this burden, she was required to produce evidence; bald assertions will not suffice. (*Ford Motor Co., supra,* 35 Cal.App.4th at p. 610.) We find Soleimani failed to meet her burden on the threshold issue as to the suitability of the proposed alternative forum. Accordingly, her motion to dismiss based on forum non conveniens should have been denied, and the trial court erred by failing to do so.[8]

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[7] At the extreme, Karson notes that, according to the Report, "Baha'i blood is considered 'mobah,' meaning Baha'is may be killed with impunity."

[8] Our conclusion that the trial court committed reversible error by finding Iran to be a suitable alternative forum, makes it unnecessary for us to address the merits if the court's ruling on the discretionary second step of the forum non conveniens analysis, the

DISPOSITION

The judgment is reversed. The matter is remanded to the trial court with directions to vacate its order dismissing the action, to vacate the order granting the motion to stay the action based on forum non conveniens, and to enter a new and different order denying the motion to dismiss. Karson shall recover her costs on appeal.

NOT TO BE PUBLISHED.

JOHNSON, J.

We concur:

MALLANO, P. J.

CHANEY, J.

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consideration of the litigants' private interests, and the public's interest in retaining the action for trial in California.